



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 03 2008

REPLY TO THE ATTENTION OF:  
AE-17J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Daniel Carney, Environmental Manager  
St. Mary Cement, Inc. (U.S.)  
Corporation Trust Center  
1914 White Oak Lane  
Dixon, Illinois 61021

Re: Notice of Violation  
St. Marys Dixon Plant  
Dixon, Illinois

Dear Mr. Carney:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to St. Marys Cement, Inc. (U.S.) pursuant to Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1). We find that you are violating requirements for attainment areas in Subtitle I, Part C, of the Act, at its implementing regulations at 40 C.F.R. § 52.21 as incorporated into the Illinois State Implementation Plan, at your Dixon, Illinois facility.

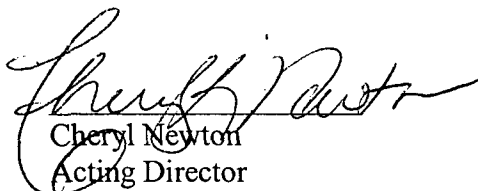
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Daniel Schaufelberger. You may call him at (312) 886-6814 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



Cheryl Newton  
Acting Director  
Air and Radiation Division

Enclosure

cc: Ray Pilapil, Manager  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

St. Barbara Cement Inc.  
Dixon, Illinois Plant

and

St. Marys Cement Inc. (U.S.)  
Dixon, Illinois Plant

Proceeding Pursuant to  
Section 113(a)(1) of the  
Clean Air Act, 42 U.S.C.  
§ 7413(a)(1)

**NOTICE OF VIOLATION**

**EPA-5-08-23-IL**

**NOTICE OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation (NOV) pursuant to Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1)(the Act). U.S. EPA finds that St. Barbara Cement Inc. owns, and St. Mary Cement Inc. (U.S.) operates, a cement manufacturing facility located at 1914 White Oak Lane in Lee County, Dixon, Illinois (the Dixon Plant), which is in violation of Subchapter I, Part C of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois State Implementation Plan (SIP).

These violations were caused when a previous owner and operator of the Dixon Plant conducted major modifications at the plant without obtaining a permit as required by the Prevention of Significant Deterioration ("PSD") rules. U.S. EPA is sending this NOV to St. Barbara Cement Inc. and St. Mary Cement Inc. (U.S.) because they are the current owner and operator of the Dixon Plant and because, through a series of business transactions, St. Barbara Cement Inc. has assumed the legal liability for these violations from its predecessor-in-interest.

**Statutory and Regulatory Background**

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration of air quality standards (the PSD regulations) pursuant to Subchapter I, Part C of the Act. These regulations were revised on August 1, 1980 (45 Fed. Reg. 52676) and December 31, 2002, (67 Fed. Reg. 80186), and are codified at 40 C.F.R. § 52.21.
2. Subchapter I, Part C of the Act, and the PSD regulations implementing Part C at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is "major" in that it will result in a "significant

net increase" in emissions of a regulated NSR pollutant, and if the source is located in an area which has either achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant or has been designated as unclassifiable for that pollutant. Part C and its implementing regulations further require that a source subject to the PSD regulations shall install Best Available Control Technology (BACT) to control the emissions of each regulated NSR pollutant. 40 C.F.R. § 52.21(j).

3. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Illinois SIP. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584).
4. On August 7, 1980, U.S. EPA also delegated to the Illinois Environmental Protection Agency (IEPA) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
5. 40 C.F.R. § 52.21(a)(2) states, in part, that the PSD regulations, including the need to obtain a PSD permit prior to beginning actual construction, apply to the major modification of any existing major stationary source in an area designated as attainment or unclassifiable.
6. 40 C.F.R. § 52.21(b)(1)(i)(a) defines a "major stationary source" as any source, including Portland cement plants, which emit or has the potential to emit 100 tons per year or more of a regulated NSR pollutant, which includes, with limited exceptions, any pollutant subject to the regulation under the Act. 40 C.F.R. § 52.21(b)(50). Nitrogen oxide (NO<sub>x</sub>) is a regulated NSR pollutant as it is subject to regulation under the Act.
7. 40 C.F.R. § 52.21(b)(2)(i) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of a regulated NSR pollutant.
8. 40 C.F.R. § 52.21(b)(23)(i) defines, in part, "significant" net emissions increase as a rate of emissions which would equal or exceed 40 tons per year of NO<sub>x</sub>.
9. 40 C.F.R. § 52.21(n) states that an applicant for a permit to modify a stationary source is required to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit.
10. 40 C.F.R. § 52.21(a)(2)(iii) prohibits the actual construction or major modification of a major stationary source without a permit which states that the major stationary source or modification would meet the requirements of 40 C.F.R. §§ 52.21 (j) through (r).
11. 40 C.F.R. § 52.21(r) states that any owner or operator of a source subject to the PSD regulations who operates a source or modification without applying for and receiving approval under the PSD regulations is subject to enforcement action.

### **The Dixon Plant**

12. St. Barbara Cement Inc., a Delaware corporation, currently owns the Dixon Plant, a Portland cement manufacturing facility with three preheater cement kilns and one long dry cement kiln.
13. St. Marys Cement Inc. (U.S.), also a Delaware corporation, currently operates the Dixon Plant.
14. The Dixon Plant is located in Lee County, Illinois, an area designated as attainment for the NAAQS for NOx. 40 C.F.R. § 81.314.
15. The four cement kilns at the Dixon Plant emit or have the potential to emit 100 tons per year or more of a pollutant regulated under the Act and, therefore, are “major stationary sources” as that term is defined at 40 C.F.R. § 52.21(b)(1)(i)(a).
16. In November 2003, a predecessor-in-interest of St. Barbara, began burning petroleum coke as the only fuel in each of the Dixon Plant's four cement kilns. This change to burning 100 percent petroleum coke in all four cement kilns continues to this day and constituted a “physical change in” or “change in the method of operation” of the cement kilns at the Dixon Plant within the meaning of 40 C.F.R. § 52.21(b)(2)(i).
17. The November 2003 physical change in or change in the method of operation of the four cement kilns at Dixon Plant resulted in a significant net emissions increase of NOx that equaled or exceeded 40 tons per year, as that term is defined at 40 C.F.R. § 52.21(b)(23)(i).

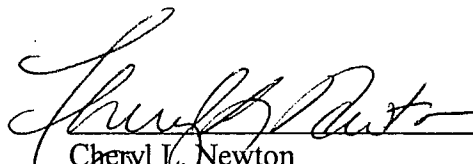
### **Violations**

18. In November 2003, a predecessor-in-interest of St. Barbara made a major modification to the four cement kilns at the Dixon Plant without obtaining a PSD permit and without complying with the requirements of 40 C.F.R. §§ 52.21(j) through (r), in accordance with the Act, which is a violation of Subchapter I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
19. In November 2003, a predecessor-in-interest of St. Barbara failed to install BACT at each of the cement kilns at the Dixon Plant to control NOx emissions, which is a violation of Subchapter I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
20. Prior to the major modification commenced in November 2003, predecessor-in-interest of St. Barbara failed to provide the permitting authorities with all the relevant information necessary for the permitting authorities to perform an analysis as to whether the operational changes at the Dixon Plant were “major modifications”, or make the determination required in order to issue the appropriate permit, resulting in an erroneous

determination in violation of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.

21. Beginning with their respective ownership and operation of the Dixon Plant and continuing to this day, St. Barbara and St. Marys have failed to provide permitting authorities with all the relevant information necessary to perform an analysis as to whether the operational changes at the Dixon Plant were "major modifications", or make the determination required in order to issue the appropriate permit, resulting in an erroneous determination in violation of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
22. Beginning with their respective ownership and operation of the Dixon Plant and continuing to this day, St. Barbara and St. Marys have operated the four cement kilns at the Dixon Plant without obtaining a PSD permit for the November 2003 major modification in violation of Subtitle I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
23. These violations commenced in November 2003, on the date the change in the method of operation of the four cement kilns at the Dixon Plant was made, and continue each day until St. Barbara and St. Marys obtain the appropriate permits and comply with the applicable requirements, including the installation and operation of BACT.
24. The U.S. EPA Administrator, by authority duly delegated to the undersigned, has notified the State of Illinois that St. Barbara Cement and St. Marys Cement are in violation of Subchapter I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP and as set forth in this NOV.

7/3/08  
Date

  
Cheryl L. Newton  
Acting Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Tracy Jamison, certify that I sent a Notice of Violation, No. EPA-5-08-23-IL, by


Certified Mail, Return Receipt Requested, to:

Daniel Carney, Environmental Manager  
St. Marys Cement, Inc. (U.S.)  
1914 White Oak Lane  
Dixon, Illinois 61021

I also certify that I sent copies of the Notice of Violation by first class mail to:

Ray Pilapil, Manager  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 7<sup>th</sup> day of July, 2008.

  
Tracy Jamison  
Office Automation Clerk  
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0186 1160